

Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in production agriculture or for use in State or Federal agricultural programs. The purchase of a dirt scraper for the purpose of moving sand out of a field would not qualify for the exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

November 6, 2003

Dear Xxxxx:

This letter is in response to your letter dated June 9, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.1120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I have a farmer that wants to buy a dirt scraper from me the one thing he wants to do with this is move some sand that the flood of 1993 washed in and put in in some of his low spots in field is this tax exempt

For your information, we suggest you review 86 Ill. Adm. Code 130.305, which is the Department's regulation for Farm Machinery and Equipment. Retailers' Occupation Tax (sales tax) does not apply to sales of machinery and equipment used primarily in production agriculture or for use in State or Federal agricultural programs. No transaction is exempt on the basis of the farm machinery and equipment exemption unless a certification is provided by the purchaser containing the information required by Section 130.305(m) of the Department's rules.

Machinery and equipment that is used both in qualifying and non-qualifying activities must be used primarily in a qualifying activity before the exemption has application. Production agriculture, with respect to crops, is limited to activities necessary in tilling the soil, planting, irrigating, cultivating, applying herbicide, insecticide or fertilizer, harvesting and drying crops. Activities such as clearing of land, mowing of fence rows, creation of ponds or drainage facilities are not included, nor are the

operations involved in the storing or transporting of crops and produce. See Section 130.305(f). The purchase of a dirt scraper for the purpose of moving sand out of a field would not qualify for the exemption.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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Enc.